

**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Birach Broadcasting Company	)	File No.: EB-FIELDNER-13-00010859
Licensee of AM Station WWCS	)	
Owner of Antenna Structures	)	NOV No.: V201332400040
ASR # 1222688 and # 1222689	)	
Canonsburg, Pennsylvania	)	Facility ID: 5349
	)	
	)	

**NOTICE OF VIOLATION**

**Released: September 4, 2013**

By the District Director, Philadelphia Office, Northeastern Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission’s rules (Rules)<sup>1</sup> to Birach Broadcasting Company (Birach), licensee of AM Station WWCS and owner of antenna structure numbers 1222688 and 1222689 in Canonsburg, Pennsylvania. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation noted herein.<sup>2</sup>

2. On August 22, 2013, an agent of the Enforcement Bureau’s Philadelphia Office inspected antenna structure numbers 1222688 and 1222689 located at Canonsburg, Pennsylvania and observed the following violation:

47 C.F.R. § 73.49: “Antenna towers having radio frequency potential at the base (series fed, folded unipole, and insulated base antennas) must be enclosed within effective locked fences or other enclosures. [. . .] However, individual tower fences need not be installed if the towers are contained within a protective property fence.” At the time of inspection, the agent observed that the fences around the towers in Station WWCS’s two-tower directional array had a significant number of collapsed sections, thereby rendering the fences ineffective. Because there was no protective property fence, these conditions resulted in unrestricted access to the towers, which had radio frequency potential at their base.

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

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3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Rules, we seek additional information concerning the violation and any remedial actions taken. Therefore, Birach must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>4</sup>

4. In accordance with Section 1.16 of the Rules, we direct Birach to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Birach with personal knowledge of the representations provided in Birach's response, verifying the truth and accuracy of the information therein,<sup>5</sup> and confirming that all of the information requested by this Notice which is in Birach's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>6</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission  
Philadelphia Office  
One Oxford Valley Building, Suite 404  
2300 East Lincoln Highway  
Langhorne, Pennsylvania 19047

6. This Notice shall be sent to Birach Broadcasting Corporation at its address of record.

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<sup>3</sup> 47 U.S.C. § 308(b).

<sup>4</sup> 47 C.F.R. § 1.89(c).

<sup>5</sup> Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

<sup>6</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. The Privacy Act of 1974<sup>7</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

David C. Dombrowski  
District Director  
Philadelphia Office  
Northeast Region  
Enforcement Bureau

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<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).